

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q67321

Naruto ENTANI

Appln. No.: 09/987,667

Group Art Unit: 3693

Confirmation No.: 7510

Examiner: Chandler, Sara M.

Filed: November 15, 2001

For: MEDIATION SERVICE METHOD FOR COLLECTING AND SELLING PIECES OF
SELLING PRICE INFORMATION THAT MATCHES A REQUEST

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

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I. REAL PARTY IN INTEREST

The real party in interest is NEC INFRONTIA CORPORATION, by virtue of an assignment executed by Naruto Entani (Appellant, hereafter), on November 14, 2001, and recorded by the Assignment Branch of the U.S. Patent and Trademark Office on December 19, 2001 (at Reel 012381, Frame 0989).

II. RELATED APPEALS AND INTERFERENCES

To the knowledge and belief of Appellants, the Assignee, and the undersigned, there are no other appeals or interferences before the Board of Appeals and Interferences that will directly affect or be affected by the Board's decision in the instant Appeal.

III. STATUS OF CLAIMS

The application was filed with claims 1-7. Claims 8-15 were added in an Amendment filed January 30, 2007. Claims 16 and 17 were added in and Amendment filed December 5, 2007. Claim 30 was added in an Amendment filed September 19, 2007. Thus, claims 1-17 are the claims currently pending in the application.

Claims 1, 5-8 and 12-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Grdina, U.S. Patent 6,965,872 in view of Aarnio, U.S. Publication 2004/0078274. Claims 2, 3, 9, 10, 16 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Grdina and Aarnio as applied to claims 1 and 8 above, and further in view of Mandler, U.S. Patent 6,785,661. Claims 4 and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Grdina and Aarnio as applied to claims 1 and 8 above, and further in view of Luke, U.S. Patent 6,131,087.

The rejection of claims 1-17 is being appealed.

IV. STATUS OF AMENDMENTS

The claim amendments submitted in the Amendment filed April 11, 2008 were entered as of the Advisory Action mailed April 25, 2008. Therefore, no outstanding amendments to the claims are currently pending.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The instant application is directed toward a mediation service system and server, and a method for operation thereof. A summary of the invention is provided with reference to exemplary, non-limiting embodiments.

According to claim 1, there is disclosed a selling price information mediation service method for mediating and supplying selling price information, which includes selling prices of a commodity in respective stores and information about the respective stores, over a network, the method comprising:

receiving, from an information requester terminal, an information request that requests selling price information about a commodity,¹ and communicating the information request directly to a plurality of information provider terminals;²

collecting selling price information which matches the information request from at least one of said plurality of information provider terminals in response to the information request, and generating collected selling price information that matches the information request;³

supplying the collected selling price information to said information requester terminal,⁴ and charging said information requester terminal a prescribed information supply fee and mediation commission;⁵ and

¹ See FIG. 2, operation 205 and Specification, page 9, lines 16-20.

² See FIG. 2, operation 206 and Specification, page 11, lines 6-11.

³ See FIG. 2, operation 208 and Specification, page 12, lines 18-22.

⁴ See FIG. 2, operation 211 and Specification, page 13, lines 24-27.

providing payment of a prescribed informer fee to the at least one of said plurality of information provider terminals that provided the pieces of selling price information that match the information request.⁶

According to claim 8, there is disclosed a system for mediating and providing selling price information over a network, the system comprising:

at least one information requester terminal which requests selling price information;⁷
a plurality of information provider terminals, each of which provide selling price information for a retailer;⁸ and

a management server which mediates selling price information;⁹

wherein the mediating selling price information comprises:

receiving an information request that requests selling price information about a commodity from at least one information requester terminal,¹⁰ and communicating the information request directly to a plurality of information provider terminals;¹¹

⁵ See FIG. 2, operation 210 and Specification, page 13, lines 17-23.

⁶ See FIG. 2, operation 213 and Specification, page 14, lines 11-16.

⁷ See FIG. 1, element 102 and Specification, page 9, lines 16-20.

⁸ See FIG. 1, element 103 and Specification, page 7, lines 22-26.

⁹ See FIG. 1, element 104 and Specification, page 7, lines 15-18.

¹⁰ See FIG. 2, operation 205 and Specification, page 9, lines 16-20.

¹¹ See FIG. 2, operation 206 and Specification, page 11, lines 6-11.

collecting pieces of selling price information which match the information request from at least one of said plurality of information provider terminals in response to the information request, and generating collected selling price information that matches the information request;¹²

supplying the collected selling price information to said information requester terminal,¹³ and charging said information requester terminal a prescribed information supply fee and mediation commission;¹⁴ and

providing payment of a prescribed informer fee to the at least one of said plurality of information provider terminals that provided the pieces of selling price information that match the information request.¹⁵

According to claim 15, there is disclosed a management server for mediating selling price information over a network, the management server comprising:

a receiving unit which receives an information request which requests selling price information about a commodity from at least one information requester terminal,¹⁶

¹² See FIG. 2, operation 208 and Specification, page 12, lines 18-22.

¹³ See FIG. 2, operation 211 and Specification, page 13, lines 24-27.

¹⁴ See FIG. 2, operation 210 and Specification, page 13, lines 17-23.

¹⁵ See FIG. 2, operation 213 and Specification, page 14, lines 11-16.

¹⁶ See Specification, page 9, lines 16-20.

a communication unit which communicates the information request directly to a plurality of information provider terminals;¹⁷

a collecting unit which collects pieces of selling price information matching the information request from at least one of said plurality of information provider terminals, and generates collected selling price information that matches the information request;¹⁸

a supplying unit which supplies the collected selling price information to said information requester terminal¹⁹ and charges said information requester terminal a prescribed information supply fee and mediation commission;²⁰ and

a processing unit which provides payment of a prescribed informer fee to the at least one of said plurality of information provider terminals that provided the pieces of selling price information that match the information request.²¹

¹⁷ See Specification, page 11, lines 6-11.

¹⁸ See Specification, page 12, lines 18-22.

¹⁹ See Specification, page 13, lines 24-27.

²⁰ See Specification, page 13, lines 17-23.

²¹ See Specification, page 14, lines 11-16.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 5-8 and 12-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Grdina, U.S. Patent 6,965,872 in view of Aarnio, U.S. Publication 2004/0078274. Claims 2, 3, 9, 10, 16 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Grdina and Aarnio as applied to claims 1 and 8 above, and further in view of Mandler, U.S. Patent 6,785,661. Claims 4 and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Grdina and Aarnio as applied to claims 1 and 8 above, and further in view of Luke, U.S. Patent 6,131,087.

VII. ARGUMENT

Claims 1, 5-8 and 12-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Grdina, U.S. Patent 6,965,872 in view of Aarnio, U.S. Publication 2004/0078274.

Appellant respectfully submits that the Examiner's proposed combination of Grdina and Aarnio would not render independent claims 1, 8 and 15 obvious.

As a preliminary matter, Appellant respectfully submits that the Examiner's belief that the word "directly" conflicts with a network environment is misplaced.²² Appellant submits that a *received* information request is directly communicated to the plurality of information provider terminals.²³ The Examiner seems to be interpreting the "directly" to mean that the information requester terminal directly communicates with the plurality of information provider terminals. However, this interpretation is not supported by the claim language. Rather, as noted in claim 15, the server directly communicates the previously received information request to the plurality of information provider terminals. Thus, Appellant submits that claim 1, and analogously claim 15, are written correctly.

Further, the Examiner continues to allege that a proposed combination of Grdina and Aarnio discloses all of the elements of claim 1. Specifically, the Examiner argues that:

[i]n Grdina, the communication devices (e.g., telephone, computer, vehicle, pda, etc.) are akin to the terminals of the claimed invention. In Grdina, the consumers/customers are akin to the information requesters. In Grdina, the

²² See Final Office Action dated February 11, 2008, pages 19-21.

²³ Appellant would further direct the Examiner to Appellant's comments regarding this issue on pages 11 and 12 of the Amendment filed December 5, 2007.

retailers/business owners are akin to the information providers. In Grdina, in addition to the system receiving information requests from the consumers/customers, the system also communicates information requests directly to the retailers/business owners.²⁴

The Examiner then concludes that claims 1-17 would have been obvious because “claims 1-17 are merely using a known technique to improve a similar device in the same way,” citing KSR.²⁵ Appellant respectfully disagrees.

Claim 1 requires that the information request *received from* the information requester terminal is *communicated directly to* a plurality of information provider terminals. As noted on page 12 of the Amendment filed December 5, 2007, and further emphasized herein, Grdina, on the other hand, indicates that retailers may upload prices for goods/services to a database and further allows a retailer to collect and sort data regarding competitors. However, any information request submitted by a consumer merely searches the database and returns results. The actual received information request is not forwarded to retailers by the database. Therefore, Grdina cannot disclose “communicating the information request directly to a plurality of information provider terminals” as recited in claim 1, and as alleged by the Examiner.

Aarnio fails to cure the deficient disclosure of Grdina as the server disclosed in Aarnio fails to send an information request from a customer to the actual information provider terminals.

With regard to the Examiner’s reliance on KSR, as noted above, claim 1, and analogously claims 8 and 15, do not perform a known technique in a similar way. Rather, claim 1 performs a

²⁴ See Final Office Action, dated February 11, 2008, page 21.

²⁵ See Final Office Action dated February 11, 2008, page 22.

specific method for performing mediating and supplying of selling price information, where the method is performed differently from the method disclosed in Grdina. Thus, the Examiner's reliance on *KSR* is misplaced.

Based on the above, Appellants submit that independent claims 1, 8 and 15 are patentable over the Examiner's proposed combination of references.

Claims 2, 3, 9, 10, 16 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Grdina and Aarnio as applied to claims 1 and 8 above, and further in view of Mandler, U.S. Patent 6,785,661.

Claims 2, 3, 9 and 10 are dependent from claims 1 and 8. Because the combination of Grdina and Aarnio fail to teach or suggest all of the elements of claims 1 and 8, and because Mandler fails to cure the defects noted with respect to claims 1 and 8, claims 2, 3, 9 and 10 are patentable at least by virtue of their dependency.

Claims 4 and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Grdina and Aarnio as applied to claims 1 and 8 above, and further in view of Luke, U.S. Patent 6,131,087.

Claims 4 and 11 are dependent from claims 1 and 8. Because the combination of Grdina and Aarnio fail to teach or suggest all of the elements of claims 1 and 8, and because Luke fails to cure the defects noted with respect to claims 1 and 8, claims 4 and 11 are patentable at least by virtue of their dependency.

Conclusion

The statutory fee is being charged to Deposit Account No. 19 4880 via EFS Payment Screen. The USPTO is also directed and authorized to charge all required fees, except for the

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Attorney Docket No.: Q67321

Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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Date: August 7, 2008

CLAIMS APPENDIX

CLAIMS 1-17 ON APPEAL:

1. A selling price information mediation service method for mediating and supplying selling price information, which includes selling prices of a commodity in respective stores and information about the respective stores, over a network, the method comprising:

receiving, from an information requester terminal, an information request that requests selling price information about a commodity, and communicating the information request directly to a plurality of information provider terminals;

collecting selling price information which matches the information request from at least one of said plurality of information provider terminals in response to the information request, and generating collected selling price information that matches the information request;

supplying the collected selling price information to said information requester terminal, and charging said information requester terminal a prescribed information supply fee and mediation commission; and

providing payment of a prescribed informer fee to the at least one of said plurality of information provider terminals that provided the pieces of selling price information that match the information request.

2. A selling price information mediation service method according to claim 1, wherein a selling price information mediating service employs a membership system, and said method further comprises:

registering an information requester at said information requester terminal after receiving registration information from said information requester and registering information providers at said information provider terminals as members after receiving registration information from said information providers; and

identifying an information requester or an information provider who has caused a problem by distributing erroneous information, upon occurrence of the problem.

3. A selling price information mediation service method according to claim 2, further comprising keeping a history of the information provider who caused a problem by distributing erroneous information and disclosing the history to said information requester terminal.

4. A selling price information mediation service method according to claim 1, wherein the information request includes information of a selling price limit of the commodity, and further comprising supplying said information requester terminal with only pieces of selling price information with selling prices each of which is at most the selling price limit.

5. A selling price information mediation service method according to claim 1, wherein the information request includes information indicating a restrictive area where an information requester at said information requester terminal can buy the commodity, and further comprising supplying said information requester terminal with only pieces of selling price information of stores located in the restrictive area.

6. A selling price information mediation service method according to claim 1, further comprising supplying said information requester terminal with a portion of the collected selling price information, excluding information about stores, before supplying the remaining collected selling price information to said information requester terminal, wherein the remaining collected selling price information is supplied after the charging of said prescribed information supply fee.

7. A selling price information mediation service method according to claim 1, further comprising providing payment of said prescribed informer fee to a portion of said at least one information provider terminals that provided selling price information actually supplied to said information requester terminal after supplying the collected selling price information to said information requester terminal.

8. A system for mediating and providing selling price information over a network, the system comprising:

at least one information requester terminal which requests selling price information;

a plurality of information provider terminals, each of which provide selling price information for a retailer; and

a management server which mediates selling price information;

wherein the mediating selling price information comprises:

receiving an information request that requests selling price information about a commodity from at least one information requester terminal, and communicating the information request directly to a plurality of information provider terminals;

collecting pieces of selling price information which match the information request from at least one of said plurality of information provider terminals in response to the information request, and generating collected selling price information that matches the information request;

supplying the collected selling price information to said information requester terminal, and charging said information requester terminal a prescribed information supply fee and mediation commission; and

providing payment of a prescribed informer fee to the at least one of said plurality of information provider terminals that provided the pieces of selling price information that match the information request.

9. A system according to claim 8, wherein said management server comprises a membership system, and said membership system comprises:

registering an information requester at said information requester terminal after receiving registration information from said information requester and registering information providers at said information provider terminals as members after receiving registration information from said information providers; and

identifying an information requester or an information provider who has caused a problem by distributing erroneous information, upon occurrence of the problem.

10. A system according to claim 9, wherein said membership system keeps a history of the information provider who caused a problem by distributing erroneous information and discloses the history to said information requester terminal.

11. A system according to claim 8, wherein the information request includes information of a selling price limit of the commodity, and the management server supplies said information requester terminal with only pieces of selling price information with selling prices each of that is at most the selling price limit.

12. A system according to claim 8, wherein the information request includes information indicating a restrictive area where an information requester at said information requester terminal can buy the commodity, and said management server supplies said information requester terminal with only pieces of selling price information of stores located in the restrictive area.

13. A system according to claim 8, wherein said management server supplies said information requester terminal with a portion of the collected selling price information, excluding information about stores, before supplying the remaining collected selling price information to said information requester terminal, wherein the remaining collected selling price information is supplied after the charging of said prescribed information supply fee.

14. A system according to claim 8, wherein said management server performs providing payment of said prescribed informer fee to a portion of said at least one information provider

terminals that provided selling price information actually supplied to said information requester terminal after selling the collected selling price information to said information requester terminal.

15. A management server for mediating selling price information over a network, the management server comprising:

a receiving unit which receives an information request which requests selling price information about a commodity from at least one information requester terminal,

a communication unit which communicates the information request directly to a plurality of information provider terminals;

a collecting unit which collects pieces of selling price information matching the information request from at least one of said plurality of information provider terminals, and generates collected selling price information that matches the information request;

a supplying unit which supplies the collected selling price information to said information requester terminal and charges said information requester terminal a prescribed information supply fee and mediation commission; and

a processing unit which provides payment of a prescribed informer fee to the at least one of said plurality of information provider terminals that provided the pieces of selling price information that match the information request.

16. A selling price information mediation service method according to claim 2, wherein said registration information comprises at least one of a registration identification and a password.

17. A system according to claim 9, wherein said registration information comprises at least one of a registration identification and a password.

EVIDENCE APPENDIX:

Pursuant to 37 C.F.R. § 41.37(c)(1)(ix), submitted herewith are copies of any evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 or any other evidence entered by the Examiner and relied upon by Appellant in the appeal.

Appellant is not submitting any evidence.

RELATED PROCEEDINGS APPENDIX

Submitted herewith are copies of decisions rendered by a court or the Board in any proceeding identified about in Section II pursuant to 37 C.F.R. § 41.37(c)(1)(ii).

There are no copies of decisions rendered by a court or the Board to be submitted.